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**FILED**  
Clerk  
District Court

**FEB - 7 2008**

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
THE NORTHERN MARIANA ISLANDS

PATRICK JAMES TIMMERMAN  
individually, and as guardian *ad litem* for  
JOSHUA PATRICK AGCAOILI  
TIMMERMAN, a minor, and MARIA  
PURLEY AGCAOILI TIMMERMAN,

Plaintiffs,

v.

TAGA AIR CHARTER SERVICES, INC.,  
HONG KONG ENTERTAINMENT  
(OVERSEAS) INVESTMENT, LTD.,  
TINIAN DYNASTY HOTEL, INC., and  
DOES 1-100, inclusive,

Defendants.

CIVIL ACTION NO. **08 - 0007**

**COMPLAINT AND  
DEMAND FOR JURY TRIAL**

**JURISDICTION**

1. This is an action for damages sustained by Patrick James Timmerman (Patrick”), his wife Maria Purley Agcaoili Timmerman (“Maria”), and his son Joshua Patrick Agcaoili Timmerman (“Joshua”), as a result of the August 11, 2006 crash of a Piper Cherokee aircraft model PA-32-300, designated N4509T (“AIRCRAFT”).

ORIGINAL



1 injuries as herein alleged were proximately caused by the aforementioned defendants, and/or that  
2 each of these fictitiously named defendants is a necessary party to this action. Hereinafter,  
3 reference to "defendant", "defendants", or to any named defendant, shall be deemed to refer also  
4 to those defendants fictitiously named herein as DOES 1-100.

5 10. Plaintiffs are informed and believe and thereupon allege that each of the  
6 defendants was the agent and employee of each of the remaining defendants and, in doing the  
7 things hereinafter alleged, was acting within the course of such agency and employment.

8 11. Plaintiffs are informed and believe and thereupon allege that each of the  
9 defendants aided, abetted, ratified, authorized, incited, compelled, negligently supervised and/or  
10 coerced each act of each remaining defendant, and/or acted pursuant to a common plan with each  
11 remaining defendant.

12 12. There exists, and at all relevant times there existed, a unity of interest and  
13 ownership between these defendants such that any individuality and separateness between them  
14 ceased and they acted as the alter ego of each other. Adherence to the fiction of the separate  
15 existence of these defendants as distinct entities will permit an abuse of the corporate privilege,  
16 sanction fraud and promote injustice.

### 17 FACTS

18 13. On August 11, 2006, at approximately 2:15 a.m. Saipan Standard Time, Patrick  
19 was a passenger on the AIRCRAFT, when the AIRCRAFT piloted by an employee of Taga Air,  
20 Dynasty Hotel and or Hong Kong Entertainment attempted to take off from Runway 07 at Saipan  
21 International Airport in Saipan, CNMI bound for Tinian, CNMI. Visual meteorological  
22 conditions ("VMC") prevailed in the dark, nighttime conditions and a company visual flight rules  
23 flight plan had been filed for the flight. On take-off, the AIRCRAFT got airborne briefly, but  
24 shortly crashed to the ground one-quarter mile from the departure end of the runway, injuring all  
seven occupants including Patrick.

25 14. As a direct and proximate result of the conduct of all defendants, and each of them,  
26 as aforesaid, Plaintiffs suffered the severe and permanent injuries as hereinafter alleged.

27 15. At all times herein mentioned, it was reasonably foreseeable to all defendants, and  
28 each of them, that their negligent, reckless and unlawful breach of the aforementioned duties and

obligations presented an obvious risk to the occupants of the aforementioned AIRCRAFT, including Plaintiff Patrick, which would result in serious injury or death.

### CAUSE OF ACTION FOR NEGLIGENCE

16. Plaintiffs repeat and reallege each and every allegation of Paragraphs 1 through 15.

17. On August 11, 2006, defendants Taga Air, Dynasty Hotel and Hong Kong Entertainment agreed to provide air transportation to the occupants of the AIRCRAFT pursuant to United States Code of Federal Regulations ("CFR") Part 135 from Saipan, CNMI to Tinian, CNMI, promising professional and experienced personnel who would devote time and attention to insure safe passage for all the occupants, including Patrick.

18. Defendants Taga Air, Dynasty Hotel and Hong Kong Entertainment, and each of them, were the servicers, maintainers, repairers, owners and operators of the subject AIRCRAFT.

19. At all times material hereto defendants Taga Air, Dynasty Hotel and Hong Kong Entertainment, and each of them owed plaintiffs a duty to exercise reasonable care in the servicing, maintenance, repair, ownership and operation of the subject AIRCRAFT.

20. Said crash, injuries, and resulting damages were caused by defendants Taga Air, Dynasty Hotel and Hong Kong Entertainment including their officers, agents, employees and servants, by the breach of the aforementioned duties in that they negligently, wantonly, recklessly, tortiously, unlawfully and carelessly serviced, maintained, repaired, owned and operated the subject AIRCRAFT. These acts and omissions include, but are not limited to:

- (a) Failing to warn, instruct, advise, educate and train persons using, maintaining, caring for, inspecting and/or operating the AIRCRAFT, regarding the significant dangers of the AIRCRAFT so as to cause and permit the AIRCRAFT to exist in a defective and unsafe condition for the foreseeable use and purpose for which it was intended.
- (b) Failing to provide adequately trained operators of the AIRCRAFT.
- (c) Failing to follow proper safety and emergency procedures on the AIRCRAFT.
- (d) Failing to comply with applicable Federal Aviation Regulations, Circulars and/or Advisories.

1           21. Defendants' negligence, and each of them, was a proximate cause of Plaintiffs'  
2 injuries, which they suffered and will continue to suffer.

3           22. As a direct and proximate result of the conduct of the defendants described herein,  
4 Plaintiff Patrick has suffered damages, including *inter alia* past and future medical costs, past and  
5 future wage losses, and past and future economic opportunity losses, as well as pain and  
6 suffering.

7  
8                           **CAUSE OF ACTION FOR LOSS OF CONSORTIUM**

9   **(MARIA)**

10           23. Plaintiffs repeat and reallege each and every allegation of Paragraphs 1 through 22.

11           24. Maria is now and at all times relevant herein was Patrick's wife.

12           25. Due to Patrick's injuries, Patrick has not been able to perform his normal duties as  
13 husband and afford Maria the society afforded her before his injuries.

14           26. Because of Patrick's injuries, Maria has been deprived of his care, consideration,  
15 companionship, aid and society and the pleasure and assistance of Patrick.

16           27. This loss of consortium has caused and continues to cause Maria to suffer harm  
17 and damage.

18                           **CAUSE OF ACTION FOR LOSS OF CONSORTIUM**

19   **(JOSHUA)**

20           28. Plaintiffs repeat and reallege each and every allegation of Paragraphs 1 through 27.

21           29. At all time relevant herein, Patrick was and is the natural father of Joshua.

22           30. On or about August 11, 2006, Joshua was less than one month old.

23           31. Due to Patrick's injuries, Patrick has not been able to perform his normal duties as  
24 father and provider and afford Joshua the society afforded him before Patrick's injuries.

25           32. Because of Patrick's injuries, Joshua has been deprived of his care,  
26 consideration, companionship, aid and society and the pleasure and assistance of Patrick.  
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1           33.    This loss of consortium has caused and continues to cause Joshua to suffer harm  
2 and damage.


3                                   **PRAYER**

4           WHEREFORE, plaintiffs pray for judgment against defendants as follows:

- 5           1.    For general damages according to proof;
- 6           2.    For exemplary and punitive damages according to proof; and
- 7           3.    For such other and further relief as the court deems appropriate.
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10          DATED this 7<sup>th</sup> day of February, 2008.

11                                   LAW OFFICE OF WILLIAM M. FITZGERALD

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13                                   By: WILLIAM M. FITZGERALD, ESQ.  
14                                   Attorney for Plaintiffs  
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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demands a trial by jury of six (6) on all issues.

DATED this 7<sup>th</sup> day of February, 2008.

LAW OFFICE OF WILLIAM M. FITZGERALD



By: WILLIAM M. FITZGERALD, ESQ.  
Attorney for Plaintiffs